

## REMARKS

The foregoing amendments and the following remarks are responsive to the Office Action of August 21, 2007. Claims 1 and 25 are amended. Claims 80, 82, and 84 have been canceled without prejudice. Claims 2-24, 26-48, 81, and 83 remain as previously presented. In view of the remarks set forth below, Applicant respectfully submits that Claims 1-48, 81, and 83 are in condition for allowance.

### Response to Rejections Under 35 U.S.C. § 103(a)

Claims 1-48, 81, and 83 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,774,170 to Hite et al. ("Hite") in view of U.S. Patent No. 6,718,551 to Swix et al. ("Swix"). Applicant respectfully submits that Claims 1-48, 81, and 83 are patentable over the combination of Hite and Swix for at least the following reasons.

#### Claim 1

Amended Claim 1 recites (emphasis added):

1. A method for displaying a targeted advertisement to a viewer of a display of an audiovisual system in conjunction with displaying a broadcast stream on the display, the method comprising:
  - a. selecting a broadcast stream;
  - b. displaying the selected broadcast stream on the display;
  - c. receiving a first signal from a viewer control interface indicating a viewer command to the audiovisual system, **wherein the audiovisual system is responsive to the viewer command by initiating a corresponding action selected from the group consisting of: fast-forwarding the selected broadcast stream, pausing the selected broadcast stream, replaying the selected broadcast stream, and performing a program search;**
  - d. **defining a viewer profile of the viewer of the display based on the viewer command;**
  - e. selecting a first advertisement from a plurality of stored advertisements based on the viewer profile of the viewer of the display; and
  - f. displaying the first advertisement on the display.

Applicant submits that the combination of Hite and Swix fails to teach or suggest every feature of amended Claim 1. For example, the combination of Hite and Swix does not teach or suggest an audio visual system that is "responsive to [a] viewer command by initiating a corresponding action selected from the group consisting of: **fast-forwarding the selected broadcast stream, pausing the selected broadcast stream, replaying the selected broadcast stream, and performing a program search,**" and does not teach or suggest **"defining a viewer**

**profile . . . based on the viewer command [and] selecting a first advertisement based on the view profile”** (emphasis added).

While Hite teaches the use of an algorithm that selects advertisements based on “information provided directly or indirectly by the viewer,” Hite does not teach or suggest the claimed feature of defining a viewer profile based on the viewer commands that are specifically recited in Claim 1. (Hite col. 8, lines 18-38).

Likewise, Swix fails to teach or suggest the selection of an advertisement based on a viewer profile that is defined based on the viewer commands enumerated in amended Claim 1. Swix teaches selecting an advertisement based on “viewing events.” (Swix col. 3, lines 24-47). However, even assuming that Swix teaches the act of defining a viewer profile that is based on these “viewing events” and selecting an advertisement based on the viewer profile, Swix does not teach or suggest that the “viewing events” include the viewer commands specifically recited in amended Claim 1.

For example, Swix teaches that the “viewing events” include data about a channel that is viewed, a switch to another channel, use of a VCR, or invocation of an interactive application. (Swix col. 3, lines 48:64). None of these “viewing events” satisfies the claimed viewer commands of “fast-forwarding the selected broadcast stream, pausing the selected broadcast stream, replaying the selected broadcast stream, [or] performing a program search.”

Instead, Swix teaches, for example, that ads are chosen to be presented to a viewer based on the user’s selection of a particular broadcast stream. (*See, e.g.*, the example given in Swix where an ad for a western-style restaurant is selected for presentation based on the fact that the viewer had previously chosen to watch a “western” movie; Swix at col. 11, lines 11-33). However, Swix does not teach or suggest selecting an ad based on a viewer profile that is based on viewer commands to fast-forward, pause, or replay the selected stream, or to perform a program search.

Therefore, Applicant submits that the combination of Hite and Swix does not teach or suggest all the features of amended Claim 1, so Claim 1 is patentably distinguished over Hite in view of Swix.

Claim 25

Amended Claim 25 is patentably distinguished over the combination of Hite and Swix at least for reasons similar to those set forth above with respect to amended Claim 1, and for the additional features recited therein.

Claims 2-24, 26-48, 81, and 83

Claims 2-24 and 81 each depend from Claim 1, and Claims 26-48 and 83 each depend from Claim 25. Therefore, Claims 2-24, 26-48, 81, and 83 are patentably distinguished over the combination of Hite and Swix for the reasons set forth with respect to the corresponding independent claim, and for the additional features recited therein.

**No Disclaimers or Disavowals**

Although the file wrapper may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations have been made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**CONCLUSION**

In light of the foregoing remarks, Applicant submits that Claims 1-48, 81, and 83 are in condition for allowance, and such action is earnestly solicited. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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